

आयकरअपीलीयअधिकरण ,इन्दौरन्यायपीठ ,इन्दौर
**IN THE INCOME TAX APPELLATE TRIBUNAL,
 INDORE BENCH, INDORE**

श्री सी.एम.गर्ग ,न्यायिकसदस्य

तथा

श्रीओ.पी.मीना ,लेखासदस्यकेसमक्ष

**BEFORE SHRI C. M. GARG, JUDICIAL MEMBER
 AND
 SHRI O.P. MEENA, ACCOUNTANT MEMBER**

आ.अ.सं /I.T.A. No.1540/Ind/2016		
निर्धारणवर्ष/ Assessment Year:2006-07		
Shri Naved Khan Bhopal	vs.	Income Tax Officer 1(1) Bhopal
अपीलार्थी /Appellant		प्रत्यर्थी /Respondent
स्था.ले.सं./PAN: BHQPK – 2308P		
अपीलार्थी की ओर से/Appellant by		None
प्रत्यर्थी की ओर से/Respondent by		Shri Mohd. Javed
सुनवाई की तारीख/Date of hearing		21.03.2017
उद्घोषणा की तारीख/Date of pronouncement		27.03.2017 (27.3.17)

आदेश /O R D E R

PER BENCH

This appeal is filed by the assessee against the order of ld. Commissioner of Income tax (Appeals),Bhopal, [hereinafter referred to as the CIT (A)] dated 17.12.2013. This appeal pertains to Assessment Year 2005-06 as against appeal decided in respect of assessment order dated 17.12.2013 passed u/s. 144/147 of the Income Tax Act, 1961 (herein after referred to as "the Act) by the ITO 1(1) Bhopal [hereinafter referred to as the AO].

1. At the time of hearing, none attended on behalf of the assessee at the time of hearing inspite of notice. The learned DR was heard.

2. The sum and substance of the grounds of appeal is that the learned CIT(A) was not justified in confirming the action of the Assessing Officer in treating credit card payment amounting to Rs.2,08,529/- as income from undisclosed sources.

2.1 Succinctly, facts as culled out from the orders of lower authorities are that the Assessing Officer received information regarding payment against bills raised in respect of a credit card exceeding Rs. 2 lacs by the assessee. The Assessing Officer, therefore, issued a query letter dated 9.11.2012 to the assessee requiring details of filing of income tax return for the assessment year 2006-07 but the assessee did not furnish any reply thereto. Thereafter, the Assessing Officer issued notice u/s 148 of the Act but the assessee did not file any return of income in response thereto. Again, a notice u/s 142(1) along with questionnaire was issued but no compliance was made by the assessee nor any return of income of income was filed. A reminder letter was also issued but to no avail. Finally, a notice u/s 144(1) of the Act was issued proposed assessment on the basis of material available on record but it received the same fate. The Assessing Officer, therefore, proceeded to make the assessment on the basis of material available on record.

2.2 As per the information, a payment of Rs.2,08,529/- for bills raised in respect of a credit card of ICICI Bank has been made by the assessee during the year under consideration. The Assessing Officer specifically asked the assessee to explain the source of the same. However, the assessee did not file any reply to the query raised. The Assessing Officer, therefore, inferred that the assessee has failed to offer any explanation regarding the source of payment of credit card amounting to Rs.2,08,529/-. The Assessing Officer, therefore, treated the same payment as unexplained and added the same to the total income of the assessee. On appeal that before the learned CIT(A) also, the assessee did not remain present. However, the learned CIT(A) confirmed the action of the Assessing Officer.

2.3 Now the assessee is in appeal before the Tribunal.

2.4 The learned DR supported the orders of the authorities below.

2.5 We have considered the submissions of the learned DR in the light of the facts of the case. In our opinion, it would be just and proper to afford one more opportunity to the assessee to explain his case. It is a well settled principle of natural justice that no-body should be condemned unheard. Principle of natural requires that sufficient opportunity of being heard should be provided to the assessee before deciding the issue against him. We are of the view that since the

Assessing Officer and the learned CIT(A) have decided the matter without hearing the assesseees in violation of the principles of natural justice and fair play, this appeal needs to be restored to the file of the Assessing Officer for deciding the same after providing due opportunity of being heard to the assesseees. We, therefore, following the principle of natural justice, restore this appeal to the file of the Assessing Officer with the direction to frame fresh assessment after providing the assesseees due opportunity of being heard. Needless to mention that the assessee is at liberty to file evidence, if any, in support of its claim before the Assessing Officer.

2. In the result, the appeal of the assessee is allowed for statistical purposes.
3. Order pronounced in the open Court on 27th March, 2017.

Sd

Sd/-

(सी.एम.गर्ग)
न्यायिक सदस्य
(C.M.GARG)
JUDICIAL MEMBER

(ओ.पी.मीना)
लेखा सदस्य
(O.P.MEENA)
ACCOUNTANT MEMBER

March 27 , 2017

Dn/-